

DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

Solid and Hazardous Waste Commission

Hazardous Materials and Waste Management Division

6 CCR 1007-2 Part 1

**STATEMENT OF BASIS AND PURPOSE
AND SPECIFIC STATUTORY AUTHORITY FOR**

Revision to Regulations Pertaining to Solid Waste Sites and Facilities (6 CCR 1007-2, Part 1) – Deletion and Replacement of existing Section 16 Regulations (Disposal of Motorized Equipment Wastes) with New Section 16 Regulations (Materials Prohibited from Disposal) and Associated Additions and Revisions to Section 1.2 Definitions

(Adopted by the Solid and Hazardous Waste Commission on February 19, 2013)

Basis and Purpose

I. Statutory Authority

These modifications are made pursuant to the authority granted to the Solid and Hazardous Waste Commission in Sections 30-20-109 C.R.S.. These modifications to the Solid Waste Regulations 6 CCR 1007-2, Part 1 are a direct result of 25-17-301 Part 3 C.R.S.

II. House Bill

Senate Bill 12-133 requires the Department to implement a statewide landfill ban for residentially generated electronic devices, or components of an electronic device by July 1, 2013. The addition of part 3 to article 17 of title 25 includes the following to be incorporated into the solid waste regulations:

§25-17-303 By July 1, 2013 a person shall not dispose an electronic device or a component of an electronic device in landfill in this state; except that a board of county commissioners for a county that does not have at least two electronic waste recycling events per year or an ongoing electronic waste recycling program that serves residents of the county may, by majority vote of the commissioners and in compliance with the requirements of the section, exempt its residents from the ban established by this section.

§25-17-305(2) A waste hauler, as that term is defined in section 30-20-1001 (16) C.R.S., or owner or operator of a landfill or transfer station does not violate this part 3 if the hauler, owner, or operator has made a good faith effort to comply with this part 4 by posting and maintaining, in

a conspicuous location at the waste hauler's facility, transfer station, or the landfill, a sign stating that electronic devices will not be accepted at the facility, transfer station, or landfill.

III. Purpose of revising the regulations

The sole purpose of revising Section 16 of the solid waste regulations is to implement the electronic waste landfill ban as required per SB 12-133. Prior to the proposed revisions, Section 16 of the solid waste regulations applied specifically to motorized vehicle waste prohibited from disposal at solid waste sites and facilities. The modifications to Section 16 will include a framework approach to serve as a platform for classifying materials prohibited from disposal and to specify the associated regulations.

Discussion of Regulatory Proposal

I. New and modified Definitions

The proposed revisions to Section 16 require new definitions. These changes summarized below will be incorporated into Section 1.2 of the solid waste regulations (6CCR 1007-2, Part 1).

The following definitions are being added to Section 1.2:

1. Consumer
2. Electronic device
3. Good faith effort
4. Minimum access
5. Peripheral
6. Waste electronic device

The following definition(s) are being modified in Section 1.2:

1. Collection facility

II. Section 16.1 Scope and applicability

The introductory section lays the foundation for the materials prohibited from disposal within the regulations. The list of materials currently subject to Section 16 is provided with reference to the specific citation of where the applicable requirements are set forth within the section. General provisions in subsection 16.1.2 are laid out to clarify that land disposal includes placing, discarding, or disposing of the listed wastes within Section 16 is prohibited. Also clarified in the general provision is that solid waste disposal site and facilities are not allowed to accept the listed wastes within Section 16 except for the purpose of collection to send offsite for recycling.

IV. Section 16.5 Management of residentially generated waste electronic devices

This subsection implements the requirements of SB 12-133 by banning residentially generated electronic waste from disposal. Section 16.5.1 also states how and where residents generating electronic waste shall properly manage their material through recycling facilities or collection services.

V. Exemptions

The exemption aspect of Section 16.5 details the ability for counties to opt-out of the landfill ban requirement only in circumstances where there is no existing infrastructure, or means of providing collection for waste electronics recycling within the geographic boundaries of the county.

VI. Good faith effort Requirements

Counties must first demonstrate a good faith effort by contacting electronics waste recyclers to provide at a minimum two collection events per year; or have an ongoing electronics waste recycling program available within the county. If neither option is possible, the board of county commissioners may by majority vote of the commissioners exempt its residents from the electronic waste landfill ban. The exemption from the landfill ban is valid for no more than two years and requires the county to perform another good faith effort to find one of the two options for recycling prior to reinstating the exemption from the landfill ban.

Section 16.5.3 details the specific actions required by counties prior to proceeding to vote out of the electronic waste landfill ban. The minimum requirements of the good faith effort include contacting CDPHE for assistance on electronic recyclers or reviewing the Department's webpage on electronic recyclers, contacting recycling and waste associations and recyclers for e-waste collection events, coordinating with the local landfill for collection of e-waste, and coordinating with municipalities or surrounding counties for regional collection opportunities.

VII. Used electronic device management standards

To expand and promote access to electronic recycling, common sites associated with electronics will be allowed to collect waste electronics. All sites collecting electronic waste referred to as a "collection facility" must properly manage the material to prevent any negative impacts to human health and the environment. This includes proper storage, handling, and management of the waste electronic material indoors or at a minimum covered from the elements. All sites collecting, processing, and storing residentially generated waste electronic waste must also meet all applicable solid waste recycling facility regulations and universal waste regulations.

VIII. Disposal site signage

As required by SB 12-133, all solid waste disposal site and facilities including all landfills, transfer stations, and waste hauler facilities must post in writing at the point of entry that electronic waste is not accepted at the facility for land disposal. By posting that electronic waste

is not accepted, the facility is making a good faith effort to divert material prohibited from disposal and will be regarded as complying with the landfill ban. All solid waste disposal site and facilities shall update their signs posted at the point of entry for materials prohibited from land disposal to include residentially generated electronic waste by July of 2013.

IX. Waste Characterization Plans

Section 16.6 requires all solid waste disposal site and facilities to update their waste characterization plans to incorporate the modifications to Section 16. All plans must be updated by July 1 2013 to include residentially generated waste electronic devices as defined in the solid waste regulations as prohibited from land disposal.

Stakeholder Involvement in the Process

I. Extent of Agency Consultation with the Recycling Industry and Local Governments Representatives

Prior to the stakeholder session, the Department's Hazardous Materials and Waste Management Division, Solid Waste and Materials Management Program utilized the procedures required by Executive Order 5 to contact all local governments regarding the upcoming revisions to the solid waste regulations. All municipal and county governments who responded to the Executive Order 5 survey that asked to be included in the stakeholder process were added to the emailing contact list for notification of all meetings and related regulatory documents. Local government organizations such as the Colorado Municipal League and Colorado Counties Inc were also notified about the stakeholder process and received all updates throughout the drafting process.

The Department contacted by email all registered recycling facilities in addition to industry associations including the Colorado Chapter of the Solid Waste Association of North America (SWANA), and the Colorado Association for Recycling (CAFR) regarding the Section 16 updates and stakeholder process.

Throughout the stakeholder process the Division corresponded with participants by sending out monthly stakeholder meeting email notices and included the most recent draft revisions to the regulations. The Division will also provide teleconferencing, and webinar presentation when needed, for all stakeholders outside the Denver metropolitan area to participate in the stakeholder meetings remotely.

II. Issues Encountered During Stakeholder Process

Question: What are the penalties for dumping electronics waste and how will such penalties be enforced?

Answer: Illegal disposal of solid waste, including abandoning electronic waste is a direct violation of the Colorado Solid Waste Act and is subject to a penalty of up to \$10,000 per day. The disposal ban of electronic waste applies at the residential level and any fines

assessed will be subject to the generator of illegally disposed waste. Waste haulers shall not collect any visibly noticeable waste electronic device left by a resident for disposal. Due to worker safety concerns, electronic waste commingled within waste shall not be separated out by waste haulers.

Question: What constitutes as a collection facility for electronic devices?

Answer: A collection facility is any type of operation that receives electronic waste for end of life management but does not perform any processing or dismantling of electronic waste. Common collection facilities may include retail stores where electronics are sold, thrift and consignment stores, computer repair stores, local government offices, household hazardous waste collection sites, and other collection points.

Question: Many smart phones have a screen size greater than four inches; are they included under the definition of electronic device and subject to the disposal ban?

Answer: As determined in the legislative session, all forms of telephones are exempt from the definition of a waste electronic device and the requirements of SB-133. By exemption, all telephones, including smart phones with screen sizes that meet the definition of a video display device greater than 4 inches still remain exempt from the landfill ban.

Question: Why does the disposal ban only apply to residential electronic waste?

Answer: As stated in the bill summary, the SB-133 prohibits the disposal of certain consumer electronic devices in landfills. A “consumer”, as defined in the SB-133 is a person who has purchased an electronic device primarily for personal or home business use. The Department interprets the definition of consumer to apply at the residential level. Additionally, all non-residentially generated electronic waste is already subject to the hazardous and universal waste regulations, and cannot be disposed of in a solid waste landfill. Applying SB-133 to the residential level closes the gap of electronic waste prohibited from disposal at solid waste landfills.

Question: Is a county required to fund and develop a collection facility if there are no recyclers or private collection facilities accessible within a County?

Answer: While a county is not required to fund a permanent collection facility, they are required to perform a good faith effort to provide access to electronics recycling if there is not at least two temporary e-waste collection events per year or one permanent collection site within the county. A county may use existing resources such a county landfill as a collection facility. Retailers who offer take back programs or offer recycling of electronic waste count as a permanent collection facility within a county. Counties

that need assistance with developing two recycling collection events per year may contact the Department or the Colorado Association for Recycling for assistance.

Question: Can a landfill that is located within a county subject to the electronic waste disposal ban accept and dispose of electronic waste generated from an outside the county that is exempt from the electronic waste disposal ban?

Answer: A landfill that accepts waste from other counties has no way of controlling an outside counties waste stream and recycling collection infrastructure. Therefore, a landfill may accept waste generated from an outside county that has electronic waste included. While the landfill may not accept electronic waste generated within its own county due to its residents being subject to a disposal ban, it may accept waste including electronics from a county that is exempt from the disposal ban. If the landfill is a regional facility serving multiple counties, it would serve as a regional benefit to consider developing a electronic waste collection center to divert electronic waste from surrounding counties that may not have adequate recycling infrastructure.

Question: Do waste haulers need to separate out electronic devices from the trash that they pick up? What happens if e-waste makes it way to a landfill disposal cell?

Answer: As stated in SB-133, waste haulers are not required to separate electronic devices from waste that they haul or receive for disposal. If a visibly noticeable electronic device is set out with trash but is not mixed within the trash, the hauler should leave behind the electronic device with a note that the electronic device cannot be accepted and must be recycled. A waste hauler or operator of a transfer station or landfill are not in violation of the electronic waste landfill ban if they comply with the good faith effort requirements of the bill. The good faith effort requires disposal sites and facilities to post and maintain signage at the facility stating that electronic devices will not be accepted for disposal. Waste haulers are asked to notify customers by a flyer or on their bill that electronic devices are not to be disposed of in their trash.

Question: Radios are included under the regulatory definition of a waste electronic device, does this include commercial radios?

Answer: Commercial radios are not included under the waste electronic device landfill ban as the definition pertains to only consumer electronic devices. Only residential radios, televisions, computers, etc. are subject to the ban.

Alternatives Considered and Why Rejected

During the initial review of SB-133, the Department considered adding a new section to the Solid Waste Regulations specifically dealing with the electronic waste disposal ban. Due to Section 16 of the Solid Waste Regulations already pertaining to materials prohibited from disposal, the Department instead revised Section 16 from applying to only automotive waste prohibited from disposal to a framework approach of all materials prohibited from solid waste disposal. This revision allows the Department future flexibility. If additional materials become subject to a landfill ban, the framework revision allows them to be incorporated within Section 16 rather than continually adding additional Sections to the Solid Waste Regulations.

While developing the regulations, the Department considered wording the applicability of electronic devices prohibited from disposal to include all waste electronic devices regardless of generation point. Following a review of the Bill Summary, it was determined that the disposal ban was specific to consumer electronic devices rather than all electronic devices. Based on the definition of a consumer within Statute, the Department narrowed the scope of electronic devices subject to the landfill ban to specifically apply to personal or home business use electronics, commonly referred to as residential generated electronics.

Cost Benefit Analysis

A cost benefit analysis will be performed if requested by the Colorado Department of Regulatory Agencies.